



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,961	02/25/2004	David R. Clark	555255012729	4125

7590 09/06/2006

Paul E. Franz, Esq.
Jones Day
901 Lakeside Avenue/North Point
Cleveland, OH 44114

EXAMINER

MARSH, OLIVIA MARIE

ART UNIT PAPER NUMBER

2617

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/786,961	Applicant(s) CLARK ET AL.	
	Examiner Olivia Marsh	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-6,8,9,16,17 and 48-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-6,8,9,16,17 and 48-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see pages 9-11, filed June 15th, 2006, with respect to the rejection(s) of claim(s) 1, 8, and 9 under 102(e) and 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Hansson (U.S. 6023620 A) and Cheng *et al* (U.S. 20030046676 A1).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 recites the limitation "executable program code" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1, 4-6, 8, 16-17, and 48-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vasudevan (U.S. 20040192282 A1) in view of Hansson (U.S. 6,023,620 A1).**

As to **claim 1**, Vasudevan discloses:

A method of updating a mobile device **(110) (paragraph 2)**, comprising:

receiving at a mobile device resource requirements data for an update from an update management computing device, the resource requirements data including a memory size of update data associated with the update **(paragraph 42)**;

determining whether the mobile device has a minimum amount of available memory in a mobile device memory to store the update data by comparing the memory size of the update data to the minimum amount of available memory in the mobile device memory **(paragraph 42)**;

transmitting from the mobile device to the update management computing device update request data requesting update data **(paragraph 47)**;

receiving at the mobile device the update data from the update management computing device in response to the transmitted update request data **(paragraph 47)**.

Art Unit: 2617

However, Vasudevan fails to disclose updating the mobile device with the received updata [sic] data by: determining a baseline mobile device configuration; creating an updated mobile device configuration within the available memory of the mobile device memory; and maintaining the baseline mobile device configuration after creating the updated mobile device configuration within the available memory of the mobile device memory. The Examiner contends this feature was old and well known in the art at the time of invention as taught by Hansson.

In an analogous art, Hansson teaches disclose updating the mobile device with the received updata [sic] data by: determining a baseline mobile device configuration; creating an updated mobile device configuration within the available memory of the mobile device memory; and maintaining the baseline mobile device configuration after creating the updated mobile device configuration within the available memory of the mobile device memory (**column 2, lines 19-23, 30-32, 39-40; column 3, lines 1-4, lines 16-21**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to require the method, disclosed by Vasudevan, updating the mobile device with the received updata [sic] data by: determining a baseline mobile device configuration; creating an updated mobile device configuration within the available memory of the mobile device memory; and maintaining the baseline mobile device configuration after creating the updated mobile device configuration within the available memory of the mobile device memory, as taught by Hansson, to retain the old software until the upgraded software has been tested and verified.

As to **claim 4**, Vasudevan and Hansson teach everything as applied in claim 1 and Vasudevan also discloses:

upon identifying stored mobile device data stored in the mobile device memory that may be purged to make available the minimum amount of available memory in the mobile device memory (paragraph 47):

determining whether the identified stored mobile device data is stored on a remote storage device operable to communicate with the mobile device over a communication network (paragraph 47);

upon determining that the identified stored mobile device data is not stored on the remote storage device, transmitting the identified stored mobile device data to the remote storage device for storage (paragraph 47); and

purging the identified stored mobile device data from the mobile device memory (paragraph 47).

As to **claim 5**, Vasudevan and Hansson teach everything as applied in claims 1 and 4 and Vasudevan also discloses:

updating the mobile device with the received update data (paragraph 42);

transmitting a request from the mobile device to the remote storage device for transmission of the identified stored mobile device data from the remote storage device to the mobile device (paragraph 43);

receiving the identified stored mobile device data from the remote storage device in response to the transmitted request (paragraph 43); and

storing the identified stored mobile device data in the mobile device memory (paragraph 43).

As to **claim 6**, Vasudevan and Hansson teach everything as applied in claims 1 and 4-5 and Vasudevan also discloses:

the remote storage device comprises the update management computing device (paragraph 54).

As to **claim 8**, Vasudevan and Hansson teach everything as applied in claim 1; however, Vasudevan fails to disclose determining whether to accept the updated mobile device

Art Unit: 2617

configuration; upon determining to accept the updated mobile device configuration, accepting the updated mobile device configuration as the mobile device baseline; and upon determining not to accept the updated mobile device configuration, reverting to the baseline mobile device configuration. The Examiner contends this feature was old and well known in the art at the time of invention as taught by Hansson.

Hansson also teaches determining whether to accept the updated mobile device configuration; upon determining to accept the updated mobile device configuration, accepting the updated mobile device configuration as the mobile device baseline; and upon determining not to accept the updated mobile device configuration, reverting to the baseline mobile device configuration (**column 3, lines 5-16**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to require the method, taught by Vasudevan and Hansson, determining whether to accept the updated mobile device configuration; upon determining to accept the updated mobile device configuration, accepting the updated mobile device configuration as the mobile device baseline; and upon determining not to accept the updated mobile device configuration, reverting to the baseline mobile device configuration, as taught by Hansson, to retain the old software until the upgraded software has been tested and verified.

As to **claim 16**, Vasudevan and Hansson teach everything as applied in claim 1; however, Vasudevan fails to disclose determining updating the mobile device with the received update data further comprises copy-on-write of stored baseline configuration data stored into the available memory of the mobile device. The Examiner contends this feature was old and well known in the art at the time of invention as taught by Hansson.

Art Unit: 2617

Hansson also teaches determining updating the mobile device with the received update data further comprises copy-on-write of stored baseline configuration data stored into the available memory of the mobile device (**column 2, lines 32-40**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to require the method, taught by Vasudevan and Hansson, determining updating the mobile device with the received update data further comprises copy-on-write of stored baseline configuration data stored into the available memory of the mobile device, as taught by Hansson, to retain the old software until the upgraded software has been tested and verified.

As to **claim 17**, Vasudevan and Hansson teach everything as applied in claim 1 and Vasudevan also discloses:

Executable program code stored in a computer readable medium and comprising instructions operable to cause a mobile device to perform the method of claim 1 when executed on the mobile device (paragraph 47).

As to **claim 48**, Vasudevan discloses:

A mobile device **(110) (paragraph 2)**, comprising:

means for receiving resource requirements data for an update from an update management computing device, the resource requirements data including a memory size of update data associated with the update (**paragraph 42 – It is inherent that the mobile device must possess a transceiver in order to communicate with the server**);

means **(LRM)** for determining whether the mobile device has a minimum amount of available memory in a mobile device memory to store the update data by comparing the memory size of the update data to the minimum amount of available memory in the mobile device memory (**paragraph 42**);

means (LRM), responsive to the mobile device not having the minimum amount of available memory in the mobile device memory to store the update data, for identifying stored mobile device data stored in the mobile device memory that may be purged to make available the minimum amount of available memory in the mobile device memory (**paragraph 42**);

means for transmitting from to the update management computing device update request data requesting update data (**paragraph 47 - It is inherent that the mobile device must possess a transceiver in order to communicate with the server**);

means for receiving at the mobile device the update data from the update management computing device in response to the transmitted update request data (**paragraph 47 - It is inherent that the mobile device must possess a transceiver in order to communicate with the server**).

However, Vasudevan fails to disclose means for updating the mobile device with the received updata [sic] data by: determining a baseline mobile device configuration; creating an updated mobile device configuration within the available memory of the mobile device memory; and maintaining the baseline mobile device configuration after creating the updated mobile device configuration within the available memory of the mobile device memory. The Examiner contends this feature was old and well known in the art at the time of invention as taught by Hansson.

In an analogous art, Hansson teaches disclose means (**140**) for updating the mobile device with the received updata [sic] data by: determining a baseline mobile device configuration; creating an updated mobile device configuration within the available memory of the mobile device memory; and maintaining the baseline mobile device configuration after

Art Unit: 2617

creating the updated mobile device configuration within the available memory of the mobile device memory (column 2, lines 19-23, 30-32, 39-40; column 3, lines 1-4, lines 16-21).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to require the mobile device, disclosed by Vasudevan, means for updating the mobile device with the received updata [sic] data by: determining a baseline mobile device configuration; creating an updated mobile device configuration within the available memory of the mobile device memory; and maintaining the baseline mobile device configuration after creating the updated mobile device configuration within the available memory of the mobile device memory, as taught by Hansson, to retain the old software until the upgraded software has been tested and verified.

As to **claim 49**, Vasudevan and Hansson teach everything as applied in claim 48 and Vasudevan also discloses:

means (LRM), responsive identifying stored mobile device data stored in the mobile device memory that may be purged to make available the minimum amount of available memory in the mobile device memory (paragraph 47), for determining whether the identified stored mobile device data is stored on a remote storage device operable to communicate with the mobile device over a communication network (paragraph 47);

means (LRM), response to determining that the identified stored mobile device data is not stored on the remote storage device, transmitting the identified stored mobile device data to the remote storage device for storage (paragraph 47), and for purging the identified stored mobile device data from the mobile device memory (paragraph 47).

As to **claim 50**, Vasudevan and Hansson teach everything as applied in claims 48-49 and Vasudevan also discloses:

means for transmitting a request from the mobile device to the remote storage device for transmission of the identified stored mobile device data from the remote storage device to the mobile device (paragraph 43);

means for receiving the identified stored mobile device data from the remote storage device in response to the transmitted request (paragraph 43); and

means for storing the identified stored mobile device data in the mobile device memory (paragraph 43).

As to **claim 51**, Vasudevan and Hansson teach everything as applied in claim 48; however, Vasudevan fails to disclose means for determining whether to accept the updated mobile device configuration; means, response to determining to accept the updated mobile device configuration, accepting the updated mobile device configuration as the mobile device baseline; and means, response to determining not to accept the updated mobile device configuration, for reverting to the baseline mobile device configuration. The Examiner contends this feature was old and well known in the art at the time of invention as taught by Hansson.

Hansson also means for determining whether to accept the updated mobile device configuration; means, response to determining to accept the updated mobile device configuration, accepting the updated mobile device configuration as the mobile device baseline; and means, response to determining not to accept the updated mobile device configuration, for reverting to the baseline mobile device configuration (**column 3, lines 5-16**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to require the mobile device, taught by Vasudevan and Hansson, means for determining whether to accept the updated mobile device configuration; means, response to determining to accept the updated mobile device configuration, accepting the updated mobile device configuration as the mobile device baseline; and means, response to determining not to

Art Unit: 2617

accept the updated mobile device configuration, for reverting to the baseline mobile device configuration, as taught by Hansson, to retain the old software until the upgraded software has been tested and verified.

6. Claims 9 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vasudevan and Hansson as applied to claims 1 and 48 above, and further in view of Cheng et al (U.S. 2003/0046676 A1).

As to **claims 9 and 52**, Vasudevan and Hansson teach everything as applied in claims 1 and 48 above; however Vasudevan fails to disclose storing an update resource in the mobile device memory, the update resource specifying the baseline mobile device configuration and updated mobile device configuration. The Examiner contends this feature was old and well known in the art at the time of invention as taught by Hansson.

Hansson also teaches storing an update resource in the mobile device memory, the update resource specifying the baseline mobile device configuration and updated mobile device configuration (**column 2, lines 26-32**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to require the method and mobile device, as taught by Vasudevan and Hansson, storing an update resource in the mobile device memory, the update resource specifying the baseline mobile device configuration and updated mobile device configuration, as taught by Hansson, to retain the old software until the upgraded software has been tested and verified.

However, Vasudevan and Hansson fail to teach determining whether an update resource is stored in the mobile device memory during an initialization of the mobile device; upon determining that the update resource is stored in the mobile device memory during an initialization of the mobile device, prompting a mobile device user to select one of the baseline

Art Unit: 2617

mobile device configuration or updated mobile device configuration; and accepting the updated mobile device configuration or reverting to the baseline mobile device configuration based on the user selection. The Examiner contends this feature was old and well known in the art at the time of invention as taught by Cheng.

In an analogous art, Cheng teaches determining whether an update resource is stored in the mobile device memory during an initialization of the mobile device (**paragraph 61**); upon determining that the update resource is stored in the mobile device memory during an initialization of the mobile device, prompting a mobile device user to select one of the baseline mobile device configuration or updated mobile device configuration (**paragraph 61**); and accepting the updated mobile device configuration or reverting to the baseline mobile device configuration based on the user selection (**paragraphs 61, 176**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to require the method and mobile device, taught by Vasudevan and Hansson, storing an update resource in the mobile device memory, the update resource specifying the baseline mobile device configuration and updated mobile device configuration, as taught by Hansson, determining whether an update resource is stored in the mobile device memory during an initialization of the mobile device; upon determining that the update resource is stored in the mobile device memory during an initialization of the mobile device, prompting a mobile device user to select one of the baseline mobile device configuration or updated mobile device configuration; and accepting the updated mobile device configuration or reverting to the baseline mobile device configuration based on the user selection, as taught by Cheng, to enable the user to restore the client computer to its state prior to the installation, including restoring any files that were deleted or altered.

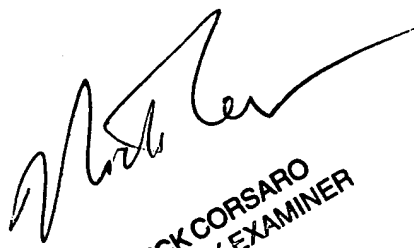
Art Unit: 2617

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olivia Marsh whose telephone number is 571-272-7912. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on 571-272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



NICK CORSARO
PRIMARY EXAMINER